

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN LAMONT JACKSON,

Defendant-Appellant.

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UNPUBLISHED

March 27, 2007

No. 268411

Wayne Circuit Court

LC No. 05-010645-01

Before: Zahra, P.J. and Bandstra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of malicious destruction of property valued at \$1,000 or more but less than \$20,000, MCL 750.380(3)(a), and entry without owner's permission, MCL 750.115(1), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with first-degree home invasion, MCL 750.110a(2), and malicious destruction of property in connection with an incident in which he damaged a porch and crashed through the window of a residence. A witness testified that she was awakened by a man yelling for help outside the house. She looked out the window and saw defendant walking at a quick pace. Defendant came to the porch of the home, kicked the porch railing and broke it away from its footings, and then backed up and charged at a window. Defendant broke through the window and entered the house. Another witness indicated that defendant stated that he had been shot. The owner of the home testified that defendant broke a porch railing, kicked a hole in a step, and broke a window. The expenses not covered by insurance totaled more than \$2,000.

The trial court convicted defendant of malicious destruction of property, finding that the evidence showed that defendant damaged property that did not belong to him, that the amount of damages exceeded \$2,000, and that defendant intended to damage the property. The trial court reasoned that defendant's act of hurling himself through a window supported an inference that defendant intended to break the window.

The trial court acquitted defendant of first-degree home invasion on the ground that no evidence showed that defendant entered the home with the intent to commit a felony. The trial court noted that defendant committed a felony, i.e., malicious destruction of property, when he entered the home, but that no evidence showed that defendant had the intent to commit any other

felony in the home. The trial court convicted defendant of the lesser included offense of entry without owner's permission.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990). A trial court sitting as the trier of fact must render a consistent verdict. *People v Hutchinson*, 224 Mich App 603, 605-606; 569 NW2d 858 (1997). A trial court's findings of fact are reviewed for clear error. MCR 2.613(C).

A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the building, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling the person is armed with a dangerous weapon or another person is lawfully present in the dwelling. MCL 750.110a(2).

To be convicted of malicious destruction of property, a defendant must have intended to injure or destroy the property in question. *People v Culp*, 108 Mich App 452, 458; 310 NW2d 421 (1981). Intent may be inferred from all the facts and circumstances. *People v Lugo*, 214 Mich App 699, 709; 542 NW2d 921 (1995). *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999).

Defendant argues that the trial court denied him due process and rendered inconsistent verdicts when it acquitted him of the charge of first-degree home invasion on the ground that no evidence showed that he intended to commit a felony when he entered the home, but then convicted him of malicious destruction of property on the ground that he committed a felony by breaking the window. We disagree.

The trial court concluded that it could not convict defendant of first-degree home invasion because no evidence showed that defendant intended to commit a felony while in the residence. MCL 750.110a(2) indicates that a person who breaks and enters a dwelling or enters without permission and, while entering the dwelling, commits a felony, is guilty of first-degree home invasion. The trial court's conclusion that it could not convict defendant of first-degree home invasion is irrelevant because the trial court acquitted defendant of that charge and convicted him of a lesser charge. See *People v Herron*, 464 Mich 593, 600; 628 NW2d 528 (2001).

The charge of malicious destruction of property was based on defendant's acts of kicking the porch railing until it came loose from its fittings, and crashing through the window. The testimony provided by the witnesses supported a finding that defendant kicked the railing and broke the window. The facts and circumstances surrounding the incident, including the facts that defendant kicked the railing until it came loose from its fittings and then backed up and charged

the window, supported an inference that defendant intended to damage the property. *Nelson, supra* at 459, citing *Lugo, supra*. This intent is the only intent necessary to commit the offense of malicious destruction of property. *Culp, supra*. Thus, defendant's conviction of malicious destruction of property was supported by sufficient evidence. *Petrella, supra*.

The trial court's conclusion that defendant did not have the requisite intent to commit the offense of first-degree home invasion is questionable, but that conclusion is not inconsistent with the finding that defendant committed the offense of malicious destruction of property. The trial court did not render inconsistent verdicts. *Hutchinson, supra*.

We affirm.

/s/ Brian K. Zahra  
/s/ Richard A. Bandstra  
/s/ Donald S. Owens